

General Information Letter: Partnership is entitled to carry forward Illinois net loss deduction.

February 4, 1999

Dear:

This is in response to your letter dated January 19, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter (GIL) which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c).

In your letter you have stated the following:

We had a (9900.00) loss on our 1997 il 1065 and this year 1998 il 1065 we have a 10,804 gain. Can we bring that 1997 loss Loss to reduce our 1998 Gain. What form and instruction would we have to have. Could you FAX this information and any forms that would cover this.

RULING

Although a partnership is exempt from the income tax imposed by section 201(a) of the Illinois Income Tax Act ("the IITA"; 35 ILCS 5/201(a), 205(b)) it is subject to the Personal Property Tax Replacement Income Tax (RIT) imposed by IITA section 201(c). The RIT is measured by "net income," which is defined by IITA section 202 to mean that portion of the taxpayer's base income allocable to Illinois under the provisions of Article 3 of the IITA, less the standard exemption allowed by section 204 and the deduction allowed by section 207.

Section 207 relates to net losses and states:

If after applying all of the modifications provided for in ... paragraph (2) of Section 203(d) and the allocation and apportionment provisions of Article 3 of this Act, the taxpayer's net income results in a loss, such loss shall be allowed as a carryover or carryback deduction in the manner allowed under Section 172 of the Internal Revenue Code.

In this case, provided the loss reported on the 1997 IL-1065 was an Illinois net loss computed under IITA section 207, and that it may be carried forward to 1998 as a deduction under Internal Revenue Code section 172, then such loss may be deducted in computing the partnership's 1998 Illinois net income.

Illinois Income Tax Regulations requires every taxpayer claiming an Illinois net loss deduction for any taxable year to make such claim in the manner and form prescribed by the Department (86 Ill. Adm. Code 100.2310(b)). To carry forward an Illinois net loss deduction, the Department requires the taxpayer to file Illinois Schedule NLD (enclosed) and claim the deduction on the IL-1065, Part II, Line 1b.

As stated above, this is a GIL which does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department.

Sincerely,

Brian L. Stocker
Staff Attorney (Income Tax)